

IC 31-34-12

Chapter 12. Findings, Presumptions, and Evidence

IC 31-34-12-1

Burden of proof of delinquent act or crime

Sec. 1. A finding by a juvenile court that a child committed a delinquent act, or that an adult committed a crime must be based upon proof beyond a reasonable doubt.

As added by P.L.1-1997, SEC.17.

IC 31-34-12-2

Burden of proof in proceedings to terminate parental rights

Sec. 2. Except as provided in IC 31-35-2-4.5(d), a finding in a proceeding to terminate parental rights must be based upon clear and convincing evidence.

As added by P.L.1-1997, SEC.17. Amended by P.L.35-1998, SEC.8.

IC 31-34-12-3

Burden of proof in other cases

Sec. 3. A finding not covered by section 1 or 2 of this chapter must be based upon a preponderance of the evidence.

As added by P.L.1-1997, SEC.17.

IC 31-34-12-4

Presumption that child is child in need of services

Sec. 4. A rebuttable presumption is raised that the child is a child in need of services because of an act or omission of the child's parent, guardian, or custodian if the state introduces competent evidence of probative value that:

- (1) the child has been injured;
- (2) at the time the child was injured, the parent, guardian, or custodian:
 - (A) had the care, custody, or control of the child; or
 - (B) had legal responsibility for the care, custody, or control of the child; and
- (3) the injury would not ordinarily be sustained except for the act or omission of a parent, guardian, or custodian.

As added by P.L.1-1997, SEC.17.

IC 31-34-12-4.5

Presumption if living in household with victim of sex offense

Sec. 4.5. (a) There is a rebuttable presumption that a child is a child in need of services if the state establishes that:

- (1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and
- (2) the sex offense described in IC 31-34-1-3:
 - (A) was committed by an adult who lives in the household with the child; and
 - (B) resulted in a conviction of the adult or a judgment under IC 31-34-11-2 as it relates to the child against whom the sex

offense was committed.

(b) The following may not be used as grounds to rebut the presumption under subsection (a):

(1) The child who is the victim of the sex offense described in IC 31-34-1-3 is not genetically related to the adult who committed the act, but the child presumed to be the child in need of services under this section is genetically related to the adult who committed the act.

(2) The child who is the victim of the sex offense described in IC 31-34-1-3 differs in age from the child presumed to be the child in need of services under this section.

(c) This section does not affect the ability to take a child into custody or emergency custody under IC 31-34-2 if the act of taking the child into custody or emergency custody is not based upon a presumption established under this section. However, if the presumption established under this section is the sole basis for taking a child into custody or emergency custody under IC 31-34-2, the court first must find cause to take the child into custody or emergency custody following a hearing in which the parent, guardian, or custodian of the child is accorded the rights described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).

As added by P.L.18-2004, SEC.2.

IC 31-34-12-5

Admissibility of evidence of prior or subsequent acts or omissions

Sec. 5. Evidence that a prior or subsequent act or omission by a parent, guardian, or custodian injured a child is admissible in proceedings alleging that a child is a child in need of services to show the following:

(1) Intent, guilty knowledge, the absence of mistake or accident, identification, the existence of a common scheme or plan, or other similar purposes.

(2) A likelihood that the act or omission of the parent, guardian, or custodian is responsible for the child's current injury or condition.

As added by P.L.1-1997, SEC.17.

IC 31-34-12-6

Admissibility of privileged communications

Sec. 6. Neither:

(1) the physician-patient privilege; nor

(2) the husband-wife privilege;

is grounds for excluding evidence in a proceeding in which the child is alleged to be a child in need of services.

As added by P.L.1-1997, SEC.17.